

Message Text

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ORIGIN IO-14

INFO OCT-01 CIAE-00 CU-04 INR-07 NSAE-00 AID-05 USIA-06
AF-10 ARA-10 EA-10 EUR-12 NEA-10 ISO-00 SIG-01
OIC-02 /092 R

DRAFTED BY IO/UNESCO:RCHEATER;IO/ML-JWASHBURN:JU
APPROVED BY IO:GADALLEY
IO/UNP - CRHARE
EA/RA - LMCNUTT
EUR - DGOOTT

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NESCO

E.O. 11652:N/A

TAGS: AORG, UNESCO, OCON
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SUBJECT:UNESCO: U.S. INITIATIVE AT 103RD SESSION OF THE
EXECUTIVE BOARD, PARIS, SEPTEMBER 12 - OCTOBER 7, 1977

1. SUMMARY: THE U. S. DELEGATION TO THE SUBJECT MEETING
WILL INTRODUCE A REQUEST THAT THE EXECUTIVE BOARD AUTHORIZE
THE CREATION OF A WORKING PARTY TO REVIEW THE APPLICABILITY

TO UNESCO OF DUE PROCESS EXAMINATION PROCEDURES SIMILAR TO THOSE DEVELOPED BY THE ILO FOR EXAMINING ALLEGATIONS THAT A MEMBER STATE HAS VIOLATED THE TERMS OF AN INTERNATIONAL CONVENTION THAT HAS BEEN ADOPTED BY THE ORGANIZATION. IT APPEARS MOST LIKELY THAT THIS REQUEST WILL BE INTRODUCED UNDER AGENDA ITEM 5.5.2, STUDY OF THE PROCEDURES WHICH SHOULD BE FOLLOWED IN THE EXAMINATION OF CASES AND QUESTIONS WHICH MIGHT BE SUBMITTED TO UNESCO CONCERNING THE EXERCISE OF HUMAN RIGHTS, CURRENTLY SCHEDULED FOR DISCUSSION OCTOBER 3. WE ASK THAT YOU SEEK THE SUPPORT OF YOUR HOST GOVERNMENT FOR THE CREATION OF THE WORKING PARTY. END SUMMARY.

2. BACKGROUND

UNESCO HAS BEEN SUBJECTED TO SAME POLITICIZATION SEEN IN OTHER UN SPECIALIZED AGENCIES. IN PARTICULAR, SIGNIFICANT AMOUNTS OF ITS RESOURCES HAVE BEEN CONSUMED IN PUSHING, OR RESISTING, POLITICAL ATTACKS ON SPECIFIC MEMBER STATES, TO THE DETRIMENT OF THE ORGANIZATION'S SUBSTANTIVE PROGRAM. THIS REACHED A PEAK AT THE 1974 GENERAL CONFERENCE, BUT AT 1976 CONFERENCE, THERE WAS A DETECTABLE LEVELLING OFF, WHICH WE THINK REFLECTED GROWING AWARENESS OF SOME MEMBER STATES THAT THEIR TRUE INTERESTS LAY IN RE-FOCUSING UNESCO'S ATTENTION ON ITS CONSTITUTIONALLY MANDATED PROGRAM RESPONSIBILITIES.

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3. U. S. INITIATIVE. ONE WAY OF RESTRAINING POLITICIZATION OF UNESCO WOULD BE TO ADOPT DUE PROCESS EXAMINATION PROCEDURES, SUCH AS ARE USED BY THE ILO, TO HANDLE ALLEGATIONS THAT MEMBER STATES HAVE VIOLATED INTERNATIONAL CONVENTIONS. THESE PROCEDURES ARE BASICALLY THE FOLLOWING:

A) FIRST, EXAMINATION OF AN ALLEGATION IS MADE BY A GROUP OF IMPARTIAL EXPERTS WORKING OUTSIDE THE POLITICAL BODIES OF THE ORGANIZATION. THEY PRODUCE A PROFESSIONAL REPORT.

B) THE EXPERTS' REPORT FORMS THE BASIS FOR THE APPROPRIATE POLITICAL BODY'S REVIEW OF THE CASE, AND IS TAKEN INTO CONSIDERATION IN ANY DECISION THAT IS MADE.

C) WHEN THE POLITICAL BODY HAS REACHED A FINAL DECISION AS TO THE JUSTIFICATION OR LACK OF IT FOR THE INITIAL ALLEGATION OF WRONGDOING, THAT DECISION AND ANY RESULTING CONDEMNATION ARE INCORPORATED IN A REPORT WHICH BECOMES PUBLIC.

THIS COMBINATION OF AN IMPARTIAL, EXPERT REVIEW TO

ESTABLISH THE BONA FIDES OF THE ALLEGATION, AND PUBLIC NOTICE OF THE FINDINGS OF THE POLITICAL BODY OF THE ORGANIZATION HAS A DEMONSTRATED AND FORCEFUL EFFECT ON BRINGING MEMBER STATES TO COMPLY WITH THEIR OBLIGATIONS UNDER THE RELEVANT INTERNATIONAL CONVENTIONS. THE PROCEDURE ALSO INSURES THAT THE ALLEGATIONS ARE DISCUSSED ON THE BASIS OF FACT, RATHER THAN BEING INTRODUCED DIRECTLY INTO A POLITICAL BODY WHERE THEY ARE ACTED ON ACCORDING TO THE POLITICAL PASSIONS OF THE MOMENT.

4. THE DUE PROCESS PROCEDURE HAS TWO BENEFICIAL EFFECTS: FIRST, IT INDUCES GOVERNMENTS THAT HAVE BEEN JUDGED TO BE IN VIOLATION OF THEIR OBLIGATIONS TO BRING THEIR LAW AND PRACTICE INTO CONFORMANCE; SECOND, BY IDENTIFYING THOSE LIMITED OFFICIAL USE

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ALLEGATIONS THAT ARE UNFOUNDED, IT RESTRAINS GOVERNMENTS FROM MAKING BLATANT POLITICAL ATTACKS ON OTHER MEMBER STATES WHEN THERE IS NO JUSTIFICATION FOR THE ATTACK. IT IS THIS LATTER RESTRAINING TENDENCY THAT WE SEE AS PARTICULARLY POTENTIALLY VALUABLE FOR REDUCING POLITICIZATION IN UNESCO.

5. ALTHOUGH THERE ARE IMPORTANT DIFFERENCES BETWEEN THE STRUCTURES OF THE ILO AND UNESCO, WE FEEL THAT THE PRINCIPLES OF THE ILO'S PROCESSES--EXPERT, IMPARTIAL EXAMINATION AND PUBLIC STATEMENT OF THE POLITICAL BODY'S FINDINGS--MAY BE APPLICABLE TO UNESCO. IN ORDER TO DETERMINE THE FULL IMPLICATIONS OF SUCH A SYSTEM IN UNESCO, WE FEEL IT IS APPROPRIATE TO HAVE THE EXECUTIVE BOARD APPOINT A WORKING GROUP, PROBABLY COMPOSED OF PERMANENT REPRESENTATIVES RESIDENT IN PARIS, THAT WOULD MAKE A THOROUGH EXAMINATION OF THE PROPOSAL, IN CLOSE CONSULTATION WITH THE DIRECTOR GENERAL, AND REPORT BACK TO THE 104TH SESSION IN APRIL-MAY 1978.

6. WE HOPE WORKING GROUP WILL, AND INTEND TO ACTIVELY ENCOURAGE IT, TO AGREE TO SUPPORT APPLICATION TO UNESCO OF THE TWO BASIC PRINCIPLES OF THE ILO PROCEDURE--EXPERT EXAMINATION AND PUBLICITY TO THE FINAL FINDINGS OF THE POLITICAL BODIES, IN THIS CASE THE EXECUTIVE BOARD OR THE GENERAL CONFERENCE. WE ARE BEING DELIBERATELY VAGUE ABOUT THE DETAILS, PREFERRING TO LEAVE AS MUCH OF THIS ISSUE NEGOTIABLE AS POSSIBLE. ILLUSTRATIVE OF THE DETAILS THAT WOULD HAVE TO BE SETTLED ARE:

A) WHO APPOINTS THE INDEPENDENT EXPERTS? (PROBABLY THE DIRECTOR GENERAL, SUBJECT TO THE CONFIRMATION OF THE EXECUTIVE BOARD.)

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B) WHAT AUTHORITY WILL THE EXPERTS HAVE? (PROBABLY TO CALL ON GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, AND INDIVIDUALS FOR STATEMENTS, REPORTS AND DOCUMENTS RELEVANT TO THE ALLEGATION.)

C) WHAT KINDS OF ALLEGATIONS WOULD BE PUT BEFORE THE EXPERTS? (PROBABLY ALLEGATIONS THAT A SPECIFIC MEMBER STATE HAD VIOLATED A PROVISION OF A UNESCO CONVENTION THAT THE MEMBER STATE HAD RATIFIED.)

D) WHAT OBLIGATION WOULD THE EXECUTIVE BOARD OR GENERAL CONFERENCE HAVE TOWARD THE REPORT OF THE EXPERTS? (THEY PROBABLY SHOULD NOT BE ABLE TO CONSIDER AN ALLEGATION WITHOUT HAVING THE EXPERTS' REPORT.)

7. ADDRESSEES ARE ALL IMPORTANT MEMBERS OF THE EXECUTIVE BOARD, AND ACTION POSTS UNLESS THEY PERCEIVE OVERRIDING OBJECTIONS ARE REQUESTED TO ASK FOR THEIR SUPPORT FOR THE CONVENING OF A WORKING GROUP, USING TALKING POINTS BELOW. WE HAVE ALREADY DISCUSSED THE MATTER WITH THE CHAIRMAN OF

THE EXECUTIVE BOARD, THE DIRECTOR GENERAL, AND SELECTED PERMANENT REPRESENTATIVES TO UNESCO RESIDENT IN PARIS. THIS ISSUE SHOULD NOT COME AS A NEW ITEM TO HOST GOVERNMENTS.

8. TALKING POINTS

-- OUR GOVERNMENTS HAVE BOTH BEEN LONG CONCERNED OVER THE GROWING INTRUSION OF POLITICAL CONTENTION INTO THE CONDUCT OF UNESCO'S WORK. AT THE SAME TIME, WE RECOGNIZE THAT UNESCO'S MANDATE NECESSARILY HAS A CONSIDERABLE POLITICAL DIMENSION.

-- THIS DIMENSION OCCURS PARTICULARLY IN UNESCO'S
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CONSIDERATION OF THE IMPLEMENTATION BY ITS MEMBERS OF A NUMBER OF CONVENTIONS ADOPTED UNDER ITS SPONSORSHIP. ALLEGATIONS ARE OFTEN MADE THAT ONE COUNTRY OR ANOTHER IS VIOLATING THESE CONVENTIONS AND PROLONGED AND ACRIMONIOUS DEBATE ENSUES.

-- WE HAVE THEREFORE CONCLUDED THAT MUCH OF THE TIME AND

ENERGY OF THE MAJOR UNESCO BODIES COULD BE SAVED BY
ESTABLISHED REGULAR PRELIMINARY PROCEDURES TO BE FOLLOWED
BEFORE SUCH ALLEGATIONS CAN BE RAISED IN THOSE BODIES.
WE HAVE BEEN IMPRESSED BY THE PROCEDURE ILO USES FOR THIS
PURPOSE. AS YOU MAY ALREADY KNOW, WE INTEND TO PROPOSE
AT THE FORTHCOMING UNESCO EXECUTIVE BOARD MEETING THAT A
WORKING GROUP BE ESTABLISHED TO EXAMINE THE USE OF SUCH
PROCEDURES IN UNESCO, USING ILO'S AS A MODEL. (THE DES-
CRPTION OF THE NATURE AND BENEFITS OF ILO'S PROCEDURES
IN PARAS 3-4 MAY BE USED AS APPROPRIATE.)

-- WE HOPE VERY MUCH THAT YOU WILL SUPPORT THIS PROPOSAL
IN THE EXECUTIVE BOARD. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 02-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE210682
Document Source: CORE
Document Unique ID: 00
Drafter: JWASHBURN:JU
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770320-0782
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t197709101/aaaadhlo.tel
Line Count: 237
Litigation Code IDs:
Litigation Codes:
Litigation History:
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Office: ORIGIN IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1066274
Secure: OPEN
Status: NATIVE
Subject: UNESCO: U.S. INITIATIVE AT 103RD SESSION OF THE EXECUTIVE BOARD, PARIS, SEPTEMBER 12 - OCTOBER 7, 1977
TAGS: AORG, OCON, UNESCO
To: BERN BONN MULTIPLE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/d984ff38-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009